

# Notice of Allowability

Application No.

10/824,963

Examiner

Allana Lewin

Applicant(s)

MADIGAN ET AL.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments filed 1/26/2006.
2. ☒ The allowed claim(s) is/are 23-42.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 3/7/2006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen Madigan on March 7<sup>th</sup>, 2006. As stated by the Examiner in the first Office action mailed October 21<sup>st</sup>, 2005, it appears that the Applicants constructed the independent claims as Jepson claims, however have done so improperly. The amended claims submitted by the Applicants did not sufficiently address this matter, and therefore the Examiner contacted applicants in order to do so. The application has been amended as follows in order to overcome informalities and to render the claims in proper form:

23. (Currently Amended) An article of educational equipment horizontally traversed by a human comprising:

~~a) an enclosed rectangular shaped ladder consisting of~~

~~— i) two elongated, rigid, rectangular rails each rail of equal dimensions,~~

~~— ii) multiple rungs each rung of equal length, perpendicularly affixed to the interior side of each rectangular rail serving to hold the rails in a fixed parallel relationship to each other, and each affixed rung of a height substantially the same, and~~

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~~— iii) two rectangular, rigid end boards equal in height to the rails serving to hold the rails in place and serving to hold the ladder in a raised or inclined position after being placed upon a raised apparatus,~~

~~wherein the improvements comprise~~

a) a straight track comprising:

i) two elongated, rigid, rectangular rails each rail of substantially equal dimensions comprising elements used to effect a connection with a contiguous rail of another track, straight, arced, or curved, or used to effect a connection with a contiguous distinct end coupler comprising elements used to effect connections with contiguous rails of two or more tracks, straight, arced, or curved, thereby bridging the non-contiguous ends of the tracks,

ii) each rail comprising elements located in whole or part at its interior side used to effect connections with steps, and

iii) multiple steps each readily detachable with a geometrically shaped colored footing, of substantially equal length, perpendicularly placed length-wise in an element located in whole or part at the interior side of each rectangular rail, and while connected to each rail incapable of rotating or shifting horizontally, serving to hold the directly opposing rails in a fixed parallel relationship to each other, and of substantially the same height;

and

~~said straight track excluding end boards as an element thereof removing an obstruction associated with prior art;~~

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b) an arced track comprising:

- i) two oblong, rigid, arced rails each rail of substantially equal height and width comprising elements used to effect a connection with a contiguous rail of another track, straight, arced, or curved, or used to effect a connection with a contiguous distinct end coupler comprising elements used to effect connections with contiguous rails of two or more tracks, straight, arced, or curved, thereby bridging the non-contiguous ends of the tracks,
  - ii) each rail comprising elements located in whole or part at its interior side used to effect connections with steps, and
  - iii) multiple steps each readily detachable with a geometrically shaped colored footing, of substantially equal length, perpendicularly placed length-wise in an element located in whole or part at the interior side of each rectangular rail, and while connected to each rail incapable of rotating or shifting horizontally, serving to hold the directly opposing rails in a fixed equidistant relationship to each other, and of substantially the same height; and
- ~~said arced track excluding end boards as an element thereof removing an obstruction associated with prior art; and~~

c) a curved track comprising:

- i) two oblong, rigid, curved rails each rail of substantially equal height and width comprising elements used to effect a connection with a contiguous rail of another track, straight, arced, or curved, or used to effect a connection with a contiguous distinct end coupler comprising elements used to effect connections with contiguous

rails of two or more tracks, straight, arced, or curved, thereby bridging the non-contiguous ends of the tracks,

ii) each rail comprising elements located in whole or part at its interior side used to effect connections with steps, and

iii) multiple steps each readily detachable with a geometrically shaped colored footing, of substantially equal length, perpendicularly placed length-wise in an element located in whole or part at the interior side of each rectangular rail, and while connected to each rail incapable of rotating or shifting horizontally, serving to hold the directly opposing rails in a fixed equidistant relationship to each other, and of substantially the same height; and

~~said curved track excluding end boards as an element thereof removing an obstruction associated with prior art.~~

whereby said straight, arced, and curved tracks exclude obstructions thereby allowing contiguous connection between two or more straight, arced, or curved tracks.

31. (Currently Amended) An article of educational equipment horizontally traversed by a walking human comprising:

~~a) an enclosed rectangular shaped ladder consisting of~~

~~— i) two elongated, rigid, rectangular rails each rail of equal dimensions,~~

~~— ii) multiple rungs each rung of equal length, perpendicularly affixed to the interior side of each rectangular rail serving to hold the rails in a fixed parallel relationship to each other, and each affixed rung of a height substantially the same, and~~

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~~— iii) two rectangular, rigid end boards equal in height to the rails serving to hold the rails in place and serving to hold the ladder in a raised or inclined position after being placed upon a raised apparatus,~~

~~wherein the improvements comprise~~

a) a straight track comprising:

i) two elongated, rigid, rectangular rails each rail of substantially equal dimensions, comprising elements used to effect a connection with a contiguous rail of another track, straight, arced, or curved, or used to effect a connection with a contiguous distinct end coupler comprising elements used to effect connections with contiguous rails of two or more tracks, straight, arced, or curved, thereby bridging the non-contiguous ends of the tracks,

ii) multiple rungs each rung with a colored, geometrically shaped footing, of substantially equal length, perpendicularly affixed at the interior side of each rectangular rail serving to hold the rails in a fixed parallel relationship to each other; and

~~said straight track excluding end boards as an element thereof associated with prior art;~~

b) an arced track comprising:

i) two arced oblong, rigid, arced rails each rail of substantially equal height and width comprising elements used to effect a connection with a contiguous rail of another track, straight, arced, or curved, or used to effect a connection with a contiguous distinct end coupler comprising elements used to effect connections with contiguous

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rails of two or more tracks, straight, arced, or curved, thereby bridging the non-contiguous ends of the tracks, and

ii) multiple rungs each rung with a colored, geometrically shaped footing, of substantially equal length and diametrically affixed length-wise at the interior side of each arced rail serving to hold the directly opposing rails in a fixed equidistant relationship to each other; and

~~said arced track excluding end boards as an element thereof removing an obstruction associated with prior art; and~~

c) a curved track comprising:

i) two curved oblong, rigid, curved rails each rail of substantially equal height and width, comprising elements used to effect a connection with a contiguous rail of another track, straight, arced, or curved, or used to effect a connection with a contiguous distinct end coupler comprising elements used to effect connections with contiguous rails of two or more tracks, straight, arced, or curved, thereby bridging the non-contiguous ends of the tracks, and

ii) multiple rungs each rung with a colored, geometrically shaped footing, of substantially equal length and diametrically or otherwise affixed length-wise at the interior side of each curved rail serving to hold the directly opposing rails in a fixed equidistant relationship to each other; and

~~said curved track excluding end boards as an element thereof removing an obstruction associated with prior art.~~

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whereby said straight, arced, and curved tracks exclude obstructions thereby allowing contiguous connection between two or more straight, arced, or curved tracks.

38. (Currently Amended) An article of educational equipment horizontally traversed by a human comprising:

~~a) an enclosed rectangular shaped ladder consisting of~~

~~— i) two elongated, rigid, rectangular rails each rail of equal dimensions,~~

~~— ii) multiple rungs each rung of equal length, perpendicularly affixed to the interior side of each rectangular rail serving to hold the rails in a fixed parallel relationship to each other, and each affixed rung of a height substantially the same, and~~

~~— iii) two rectangular, rigid end boards equal in height to the rails serving to hold the rails in place and serving to hold the ladder in a raised or inclined position after being placed upon a raised apparatus,~~

~~wherein the improvements comprise~~

a) a straight track comprising:

i) two elongated, rigid, rectangular rails each rail of substantially equal dimensions, and

ii) multiple rungs each rung with a colored, geometrically shaped footing, of substantially equal length, perpendicularly affixed at the interior side of each rectangular rail serving to hold the rails in a fixed parallel relationship to each other; and



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~~said straight track excluding end boards as an element thereof associated with prior art;~~

b) an arced track comprising:

- i) two arced oblong, rigid, arced rails each rail of substantially equal height and width, and
- ii) multiple rungs each rung with a colored, geometrically shaped footing, of substantially equal length, and diametrically affixed length-wise at the interior side of each arced rail serving to hold the directly opposing rails in a fixed equidistant relationship to each other; and

~~said arced track excluding end boards as an element thereof removing an obstruction associated with prior art; and~~

c) a curved track comprising:

- i) two curved oblong, rigid, curved rails each rail of substantially equal height and width, and
- ii) multiple rungs each rung with a colored, geometrically shaped footing, of substantially equal length and diametrically or otherwise affixed length-wise at the interior side of each curved rail serving to hold the directly opposing rails in a fixed equidistant relationship to each other; and

~~said curved track excluding end boards as an element thereof removing an obstruction associated with prior art.~~

whereby said straight, arced, and curved tracks exclude obstructions thereby allowing contiguous connection between two or more straight, arced, or curved tracks.

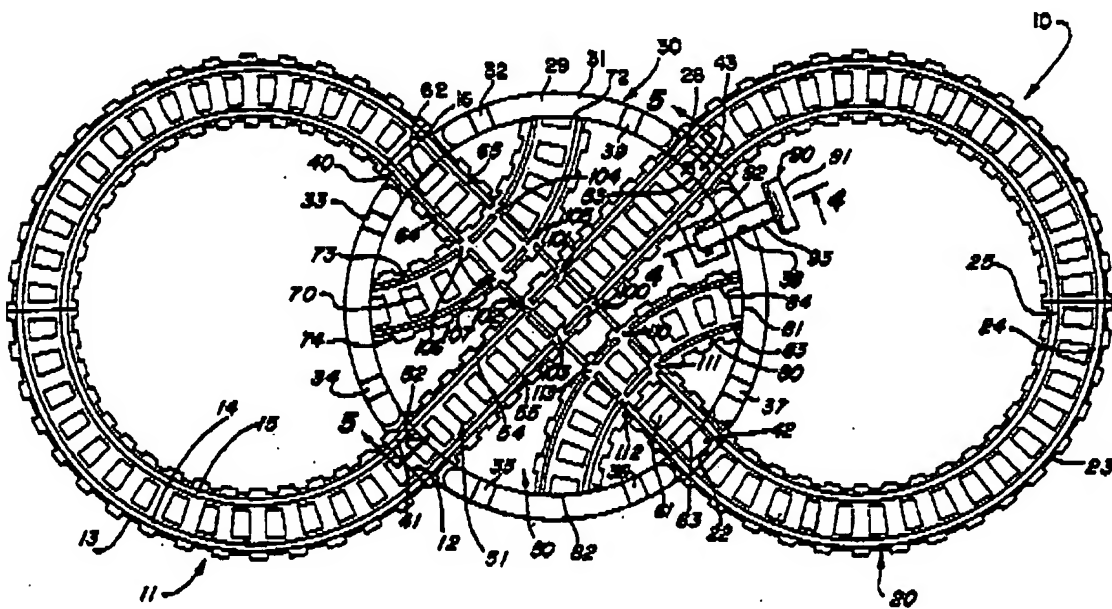
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2. The following is an examiner's statement of reasons for allowance:

3. Cottino (US Pat. No. 5,440,996) discloses a track set for toy trains comprising straight, arced, and curved tracks that are contiguously connected by couplers.

4. Cottino fails to disclose the rails of the straight, arced or curved tracks having elements on their interior side for connections with steps or rungs, or steps/rungs, having a colored and geometrically shaped footing, that are readily detachable.

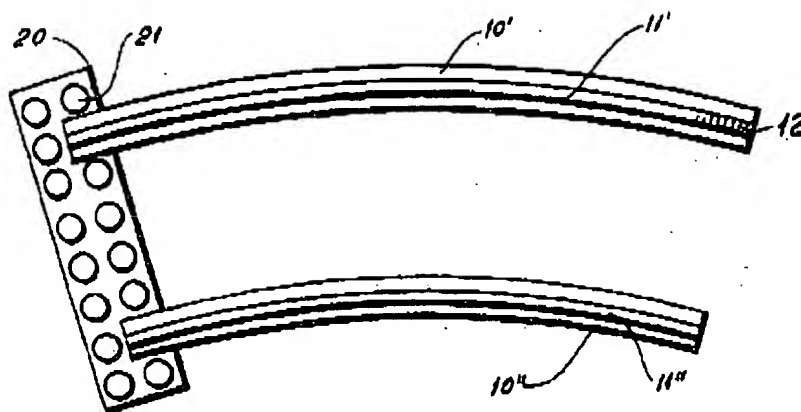
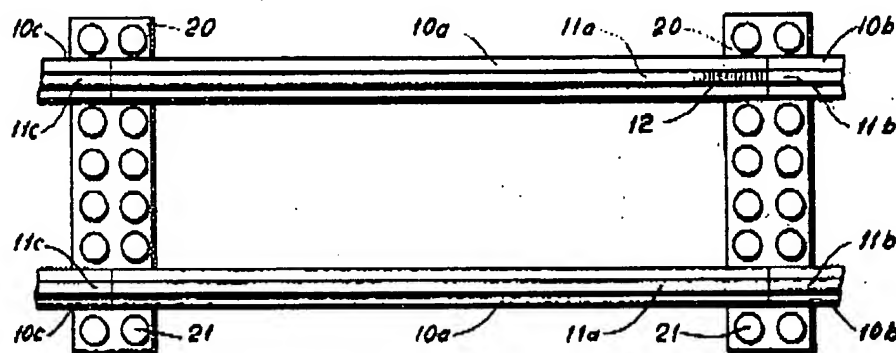
Furthermore, Cottino does not teach the tracks being for or capable of horizontal human traversal.



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5. Christiansen (US Pat. No. 3,464,624) discloses a toy track building set comprising straight and curved rails, with detachable rung members that maintain the rails in a fixed parallel relationship, wherein rails can be consecutively connected.

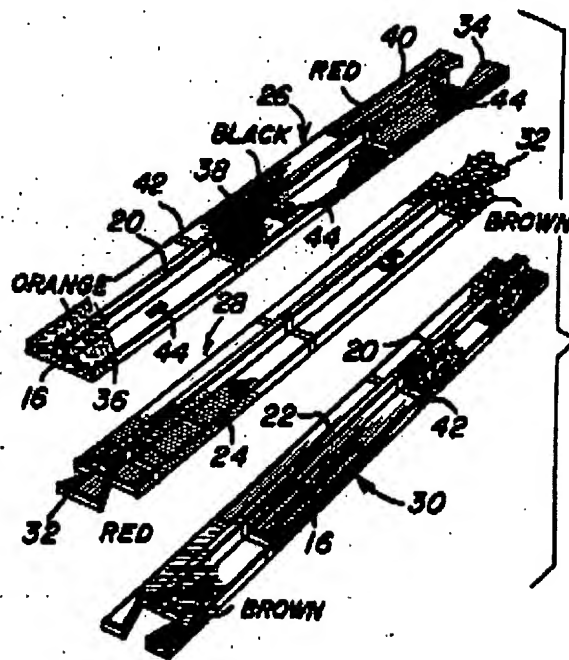
6. The Christiansen device does not teach rungs or steps that are connected or affixed at the interior side of the rails, or having a geometrically shaped and colored footing. Furthermore, the tracks of the Christiansen device are not capable of horizontal human traversal.



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7. Thomas (US Pat. No. 3,545,747) discloses a walking and balancing training aid comprising straight tracks or members having connection elements at the ends to provide contiguous connection to other members. Furthermore, Thomas teaches the tracks or members being different colors.

8. Thomas fails to disclose arced or curved tracks, or the straight tracks having two rails connected by steps or rungs.



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9. The prior art of record fails to teach educational equipment for horizontal human traversal comprising straight, curved and arced tracks, the tracks having two rails that are fixedly or detachably connected by steps, the steps having a colored and geometrically shaped footing, with the steps located at the interior side of the rails, and the aforementioned tracks not having any barriers or impediments that inhibit or prevent connection to other straight, track or curved tracks.

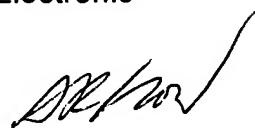
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allana Lewin whose telephone number is 571-272-5560. The examiner can normally be reached on Monday-Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AL   
3/16/2006

  
STEPHEN R. CROW  
PRIMARY EXAMINER  
ART UNIT 332